

AMENDED IN SENATE SEPTEMBER 1, 2009

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1049**

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**Introduced by Assembly Member Torrico**  
**(Coauthors: Assembly Members Beall, Caballero, Coto, DeVore,**  
**Fletcher, Fuentes, Gilmore, Harkey, Jeffries, Krekorian, Ma,**  
**Nielsen, Portantino, Solorio, and Swanson)**

February 27, 2009

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An act to add and repeal Article 18 (commencing with Section 18887) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1049, as amended, Torrico. Personal income taxes: voluntary contributions: Safely Surrendered Baby Fund.

Existing law relating to the administration of personal income taxes authorizes individual taxpayers to contribute amounts in excess of their tax liability for the support of specified funds or accounts.

This bill would allow individual taxpayers to designate on their tax returns, that a specified amount in excess of their tax liability be transferred to the Safely Surrendered Baby Fund, which would be created by this bill.

This bill would provide that all moneys contributed to the fund, upon appropriation by the Legislature, be allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and to the State Department of Social Services for ~~the distribution of grants~~ for programs to increase public awareness and outreach regarding the Safely Surrendered Baby Law, as specified.

This bill would provide that these voluntary contribution provisions are repealed on either January 1 of the 5th taxable year following the taxable year the fund first appears on the personal income tax return or on January 1 of an earlier calendar year, if the Franchise Tax Board estimates that the annual contribution amount will be less than \$250,000, or an adjusted amount, as specified, for subsequent taxable years.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 18 (commencing with Section 18887) is  
2 added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and  
3 Taxation Code, to read:

4  
5 Article 18. Safely Surrendered Baby Fund  
6

7 18887. (a) Any individual may designate on the tax return that  
8 a contribution in excess of the tax liability, if any, be made to the  
9 Safely Surrendered Baby Fund established by Section 18888.

10 (b) The contributions shall be in full dollar amounts and may  
11 be made individually by each signatory on a joint return.

12 (c) A designation under subdivision (a) shall be made for any  
13 taxable year on the original return for that taxable year, and once  
14 made shall be irrevocable. In the event that payment and credits  
15 reported on the return, together with any other credits associated  
16 with the individual's account, do not exceed the individual's tax  
17 liability, the return shall be treated as though no designation has  
18 been made.

19 (d) If an individual designates a contribution to more than one  
20 account or fund listed on the tax return, and the amount available  
21 is insufficient to satisfy the total amount designated, the  
22 contribution shall be allocated among the designees on a pro rata  
23 basis.

1 (e) The Franchise Tax Board shall revise the form of the return  
2 to include a space labeled “Safely Surrendered Baby Fund” to  
3 allow for the designation permitted under subdivision (a). The  
4 form shall also include in the instructions information that the  
5 contribution may be in the amount of one dollar (\$1) or more and  
6 that the contribution shall be used to fund outreach about, to expand  
7 awareness of, and to ensure the enforcement of, the Safely  
8 Surrendered Baby Law.

9 (f) Notwithstanding any other provision, a voluntary contribution  
10 designation for the Safely Surrendered Baby Fund shall not be  
11 added on the tax return until another voluntary contribution  
12 designation is removed.

13 (g) A deduction shall be allowed under Article 6 (commencing  
14 with Section 17201) of Chapter 3 of Part 10 for any contribution  
15 made pursuant to subdivision (a).

16 18888. There is hereby established in the State Treasury the  
17 Safely Surrendered Baby Fund to receive contributions made  
18 pursuant to Section 18887. The Franchise Tax Board shall notify  
19 the Controller of both the amount of money paid by taxpayers in  
20 excess of their tax liability and the amount of refund money that  
21 taxpayers have designated pursuant to Section 18887 to be  
22 transferred to the Safely Surrendered Baby Fund. The Controller  
23 shall transfer from the Personal Income Tax Fund to the Safely  
24 Surrendered Baby Fund an amount not in excess of the sum of the  
25 amounts designated by individuals pursuant to Section 18887 for  
26 payment into that fund.

27 18889. (a) All money transferred to the Safely Surrendered  
28 Baby Fund, upon appropriation by the Legislature, shall be  
29 allocated as follows:

30 ~~(a)~~

31 (1) To the Franchise Tax Board and the Controller only for  
32 reimbursement of all costs incurred by the Franchise Tax Board  
33 and the Controller in connection with their duties under this article.

34 ~~(b)~~

35 (2) To the State Department of Social Services ~~for distribution~~  
36 ~~of grants~~ for programs to increase public awareness and outreach  
37 regarding the Safely Surrendered Baby Law, including, but not  
38 limited to, public service announcements in English and Spanish,  
39 ~~safe-surrender~~ *safe-surrender* hotlines, a State Department of Social  
40 Services Internet Web site with a comprehensive list of

1 safe-surrender sites, education, and training for communities and  
2 schools.

3 *(b) The State Department of Social Services is not required to*  
4 *expend any funds other than those funds allocated to the*  
5 *department by the Legislature pursuant to this section for the*  
6 *Safely Surrendered Baby Fund-related activities. The State*  
7 *Department of Social Services is not required to utilize any*  
8 *resources for Safely Surrendered Baby Fund-related activities*  
9 *other than those provided pursuant to this section.*

10 18890. (a) Except as otherwise provided in subdivision (b),  
11 this article shall remain in effect only until January 1 of the fifth  
12 taxable year following the first appearance of the Safely  
13 Surrendered Baby Fund on the personal income tax return, and as  
14 of that date is repealed, unless a later enacted statute, that is enacted  
15 before the applicable date, deletes or extends that date.

16 (b) (1) By September 1 of the second calendar year and each  
17 subsequent calendar year that the Safely Surrendered Baby Fund  
18 appears on the tax return, the Franchise Tax Board shall do all of  
19 the following:

20 (A) Determine the minimum contribution amount required to  
21 be received during the next calendar year for the fund to appear  
22 on the tax return for the taxable year that includes that next calendar  
23 year.

24 (B) Provide written notification to the State Department of  
25 Social Services of the amount determined in subparagraph (A).

26 (C) Determine whether the amount of contributions estimated  
27 to be received during the calendar year will equal or exceed the  
28 minimum contribution amount determined by the Franchise Tax  
29 Board for the calendar year pursuant to subparagraph (A). The  
30 Franchise Tax Board shall estimate the amount of contributions  
31 to be received by using the actual amounts received and an estimate  
32 of the contributions that will be received by the end of that calendar  
33 year.

34 (2) If the Franchise Tax Board determines that the amount of  
35 the contributions estimated to be received during a calendar year  
36 will not at least equal the minimum contribution amount for the  
37 calendar year, this article is repealed with respect to taxable years  
38 beginning on or after January 1 of that calendar year.

39 (3) For purposes of this section, the minimum contribution  
40 amount for a calendar year means two hundred fifty thousand

1 dollars (\$250,000) for the second calendar year after the first  
2 appearance of the Safely Surrendered Baby Fund on the personal  
3 income tax return or the adjusted minimum contribution amount  
4 adjusted pursuant to subdivision (c).

5 (c) For each calendar year, beginning with the third calendar  
6 year after the first appearance of the Safely Surrendered Baby  
7 Fund on the personal income tax return, the Franchise Tax Board  
8 shall adjust, on or before September 1 of that calendar year, the  
9 minimum contribution amount specified in subdivision (b) as  
10 follows:

11 (1) The minimum estimated contribution amount for the calendar  
12 year shall be an amount equal to the product of the minimum  
13 estimated contribution amount for the calendar year multiplied by  
14 the inflation factor adjustment as specified in subparagraph (A) of  
15 paragraph (2) of subdivision (h) of Section 17041, rounded off to  
16 the nearest dollar.

17 (2) The inflation factor adjustment used for the calendar year  
18 shall be based on the figures for the percentage change in the  
19 California Consumer Price Index for all items received on or before  
20 August 1 of the calendar year pursuant to paragraph (1) of  
21 subdivision (h) of Section 17041.

22 (d) Notwithstanding the repeal of this article, any contribution  
23 amounts designated pursuant to this article prior to its repeal shall  
24 continue to be transferred and disbursed in accordance with this  
25 article as in effect immediately prior to that repeal.